#### IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

CHARLES TOWNSLEY, et al.,	)	
	)	
Plaintiffs,	)	
v.	)	Case No. 1:20-cv-00969-DAE
	)	
INTERNATIONAL BUSINESS	)	
MACHINES CORPORATION,	)	
	)	
Defendant.	)	

DEFENDANT INTERNATIONAL BUSINESS MACHINES CORPORATION'S REPLY IN SUPPORT OF ITS MOTION TO EXCLUDE EXPERT REPORT AND TESTIMONY OF MARK RAMBIN

### **EXHIBIT 1**

#### IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

CHARLES TOWNSLEY, et al.,	)	
	)	
Plaintiffs,	)	
v.	)	Case No. 1:20-cv-00969-DAE
	)	
INTERNATIONAL BUSINESS	)	
MACHINES CORPORATION,	)	
	)	
Defendant.	)	

#### **DECLARATION OF ANDREW BROADAWAY**

- 1. I am a Partner at Cornell Smith Mierl Brutocao Burton, LLP. I am serving as counsel of record for Defendant International Business Machines Corporation ("IBM") in the above-captioned matter. I make this statement based on my personal knowledge and familiarity with the discovery documents in this matter. I am over 18 years old and am otherwise competent to make this declaration.
- 2. Attached as Exhibit A to this declaration is a true and correct copy of excerpts of the deposition transcript of Michael Sauro, which was taken on November 30, 2021.

My full name is Andrew Broadaway, and my work address is Cornell Smith Mierl Brutocao Burton, LLP, 1607 West Avenue, Austin, Texas 78701.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Travis County, State of Texas, on the 24th day of June, 2022.

Signed:	/s/Andrew Broadaway	
	Andrew Broadaway	

## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

CHARLES TOWNSLEY, et al.,	)	
Plaintiffs,	)	
v.	)	Case No. 1:20-cv-00969-DAE
	)	
INTERNATIONAL BUSINESS	)	
MACHINES CORPORATION,	)	
	)	
Defendant.	)	

DEFENDANT INTERNATIONAL BUSINESS MACHINES CORPORATION'S REPLY IN SUPPORT OF ITS MOTION TO EXCLUDE EXPERT REPORT AND <u>TESTIMONY OF MARK RAMBIN</u>

**EXHIBIT A to Exhibit 1** 

# Transcript of the Testimony of **Michael Sauro**

November 30, 2021

Charles Townsley, et al. v. International Business Machines Corporation

Givens Court Reporting sgivens@austin.rr.com (512) 301-7088

```
IN THE UNITED STATES DISTRICT COURT
                                                                                 APPEARANCES
             FOR THE WESTERN DISTRICT OF TEXAS
                                                                FOR THE PLAINTIFFS:
                     AUSTIN DIVISION
                                                            3
                                                                     Ms. Heidi A. Coughlin
    CHARLES TOWNSLEY, MICHAEL
                                                            4
                                                                     WRIGHT & GREENHILL, PC
    SAURO, WALTER NOFFSINGER,
                                                                     900 Congress Avenue
    ROSA DAVIDSON, MICHAEL
                                                            5
                                                                     Suite, 500
    KELLY, TITON HOQUE, JANET
                                                                     Austin, Texas 78701
    GELPHMAN, THANH DO,
                                                                     (512) 476-4600
                                                                     hcoughlin@w-g.com
                                                            7
        Plaintiffs,
                               8
                                     CASE NUMBER
                                                                     Mr. Austin Harris Kaplan
                               § 1:20-CV-00969-LY
                                                            8
                                                                     KAPLAN LAW FIRM, PLLC
                                                                     2525 Wallingwood Drive
                                                                     Building 14
Austin, Texas 78746
                                                            9
    INTERNATIONAL BUSINESS
    MACHINES CORPORATION,
                                                           10
                                                                     (512) 553-9390
                                                                     akaplan@kaplanlawatx.com
                                                           11
                                                                     (Via Speakerphone)
        Defendants.
                                                           12
                                                                FOR THE DEFENDANT:
       * * * * * * * * * * * *
                                                           13
                                                                     Mr. Edward M. "Ted" Smith
             THE VIDEOTAPED ORAL DEPOSITION OF
                                                                     CORNELL SMITH MIERL BRUTOCAO BURTON, LLP
                                                           14
                     MICHAEL SAURO
                                                                     1607 West Avenue
                                                           15
                                                                     Austin, Texas 78701
                    November 30, 2021
                                                                      (512) 328-1540
                                                           16
                                                                     tsmith@cornellsmith.com
         * * * * * * * * * * * * * * *
                                                           17
                                                                VIDEOGRAPHER:
             THE VIDEOTAPED ORAL DEPOSITION OF MICHAEL
                                                           18
    SAURO, produced as a witness at the instance of the
                                                                     Mr. Hank Wisrodt
    Defendant and duly sworn, was taken in the above styled
                                                           19
                                                                     3stix Productions
                                                           20
    and numbered cause on the 30th day of November 2021,
                                                           21
    from 9:35 a.m. to 11:46 a.m. and from 12:46 p.m. to
                                                           2.2
    2:44 p.m., respectively, before Sandra S. Givens, CSR,
                                                           23
    in and for the State of Texas, reported by machine
                                                           24
    shorthand method at the law offices of Wright &
                                                                                                        Page 3
                                             Page 1
    Greenhill, 900 Congress Avenue, Suite 500, Austin,
                                                                                   INDEX
    Texas 78701, pursuant to the Federal Rules of Civil
                                                               Appearances - - - - - - - - - - - 3
4
                                                               MICHAEL SAURO
5
                                                                  Examination by Mr. Smith - - - - - - - -
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11
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                                                               Exhibit 1 - -
12
                                                                  Plaintiff Michael Sauro's Responses to
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                                                                  Documents
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                                                                  Plaintiff's First Amended Complaint
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                                                               Exhibit 3
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                                                                  Plaintiff Michael Sauro's Answers to
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                                                                  Defendant's First Set of Interrogatories
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19
                                                                  for Michael Sauro
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                                                                  2020 1099 from Sedera, Inc.
21
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22
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                                                                 2019 Tax History Report
                                                           23
                                                               Exhibit 7 - - - - -
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23
                                                                  2016-2018 Tax Return Comparison
24
25
                                                           25
                                                                  2019 Federal Information Worksheet
                                             Page 2
                                                                                                        Page 4
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1 (Pages 1 to 4)

1	Exhibit 9 112	1	Q My name is Ted Smith, and I represent IBM in
	2019 Personal Information Worksheet for the	2	a lawsuit that's been brought by yourself and a couple
2	Taxpayer  Exhibit 10 114	3	of other employees. Our purpose here today is for me
	Michael Sauro Resume	4	
4	CONFIDENTIAL		to ask you some questions under oath about your
5	Exhibit 11 123  IBM Corporate Policy 117 - Workplace Diversity	5	understanding of your case, your experiences at IBM and
6		6	that kind of thing.
7	Exhibit 12 137	7	A Okay.
,	3/29/18 RA Notification Email from Kimberly Siegel to Michael Sauro with Attachments	8	Q And do you understand that you are under oath
8	CONFIDENTIAL	9	this morning?
9	Exhibit 13 146  IBM CONFIDENTIAL - Guidelines for Completing	10	A I do.
10	U.S. Identification Worksheet - January 2018.	11	Q And although we're sitting in your attorney's
	January 2020. Worksheet re: Michael Sauro	12	
11	Prepared/Approved by Kim Siegel; Reviewed/ Approved by William Kribbs		conference room in her office, do you understand that
12	**	13	your testimony here today carries the same weight as if
13	Exhibit 14 155	14	we were sitting in a courtroom?
13	Job Application Emails from Schwab, Conduent, Amazon, Whole Foods Market, Indeed	15	A I do.
14		16	Q Have you ever had your deposition taken
15	Exhibit 15 156  IBM Job Posting Preview, Program Manager -	17	before?
17	Object Storage	18	A I have.
16	CONFIDENTIAL 16	19	Q What, in what kind of case?
17	Exhibit 16 165  EEOC Charge of Discrimination	20	A When I was getting a divorce.
18	·	21	Q And when was that?
19 20			
21		22	A 2017, I believe.
22		23	Q And so you've been through this process
23 24		24	before?
25		25	A Yes.
	Page 5		Page 7
	1436 3		Tage /
1	VIDEOGRAPHER: Here begins tape 1	1	Q Did that divorce matter go to trial?
2	of the video deposition of Michael Sauro. Today's date	2	A No.
		3	
3	is November 30th, 2021, and the time is 9:35 a.m. Will		Q Are you married currently?
4	counsel please identify themselves for the record?	4	A No.
5	MS. COUGHLIN: Heidi Coughlin with	5	Q Do you have any children?
6	Wright & Greenhill on behalf of the plaintiff Michael	6	A Yes.
7	Sauro.	7	Q Are you still financially responsible for
8	MR. SMITH: Ted Smith on behalf of	8	them in any way?
9	the defendant IBM.	١ .	
10		9	A No.
	VIDEOGRAPHER: And will the court	10	A No.  Q So since I know you've been through this
		10	Q So since I know you've been through this
11	reporter please swear in the witness.	10	Q So since I know you've been through this process before I won't bore you too much with the
11 12	reporter please swear in the witness.	10 11 12	Q So since I know you've been through this process before I won't bore you too much with the ground rules, but I just want to make sure that we're
11 12 13	reporter please swear in the witness.  (At this time the witness was sworn in.)	10 11 12 13	Q So since I know you've been through this process before I won't bore you too much with the ground rules, but I just want to make sure that we're on the same page on it.
11 12 13 14	reporter please swear in the witness.  (At this time the witness was sworn in.)  MS. COUGHLIN: Oh, madam court	10 11 12 13 14	Q So since I know you've been through this process before I won't bore you too much with the ground rules, but I just want to make sure that we're on the same page on it.  A Okay.
11 12 13	reporter please swear in the witness.  (At this time the witness was sworn in.)	10 11 12 13	Q So since I know you've been through this process before I won't bore you too much with the ground rules, but I just want to make sure that we're on the same page on it.
11 12 13 14	reporter please swear in the witness.  (At this time the witness was sworn in.)  MS. COUGHLIN: Oh, madam court	10 11 12 13 14	Q So since I know you've been through this process before I won't bore you too much with the ground rules, but I just want to make sure that we're on the same page on it.  A Okay.
11 12 13 14 15	reporter please swear in the witness.  (At this time the witness was sworn in.)  MS. COUGHLIN: Oh, madam court reporter, before we get started I'd like to read and	10 11 12 13 14 15	Q So since I know you've been through this process before I won't bore you too much with the ground rules, but I just want to make sure that we're on the same page on it.  A Okay.  Q You're doing a good job of answering
11 12 13 14 15	reporter please swear in the witness.  (At this time the witness was sworn in.)  MS. COUGHLIN: Oh, madam court reporter, before we get started I'd like to read and sign, or my client would like to read and sign, and	10 11 12 13 14 15	Q So since I know you've been through this process before I won't bore you too much with the ground rules, but I just want to make sure that we're on the same page on it.  A Okay.  Q You're doing a good job of answering verbally. It's very important to do that so that the
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11 12 13 14 15 16 17 18 19 20	reporter please swear in the witness.  (At this time the witness was sworn in.)  MS. COUGHLIN: Oh, madam court reporter, before we get started I'd like to read and sign, or my client would like to read and sign, and then moving forward on all these depositions we'd like to do that. Thank you. Go ahead.  MICHAEL SAURO,	10 11 12 13 14 15 16 17 18	Q So since I know you've been through this process before I won't bore you too much with the ground rules, but I just want to make sure that we're on the same page on it.  A Okay.  Q You're doing a good job of answering verbally. It's very important to do that so that the court reporter here can take down everything that you're saying. It's very difficult for her to take down a nod of the head or something like that.  A Okay.
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2 (Pages 5 to 8)

```
recessed for lunch, continuing at 12:46 p.m.)
                                                                           Were -- did you charge them a fee? Did they
                      VIDEOGRAPHER: We are back on the
                                                              2 give you a salary?
   record at 12:46. This begins tape 3.
                                                              3
3
                                                                            Oh, ves. An, an hourly rate.
         Q (By Mr. Smith) Mr. Sauro, have you had an
                                                                                     (Exhibit No. 5 marked.)
                                                                            (By Mr. Smith) So Mr. Sauro, I've handed you
    opportunity to take a break?
                                                                  what's been marked as Exhibit No. 5. Have you seen
            Are you ready to proceed?
                                                                  that document before?
                                                                       A Yes, I have.
            And I would just remind you that you're still
                                                              9
                                                                      Q Is this a tax document from 2020 that you
10
    under oath.
                                                             10 provided?
        0 Where are you currently working?
                                                             12
                                                                      O And it shows compensation in 2020 of $4,250;
12
13
             I am not working. I was at Sedera, and in
                                                             13
                                                                 is that correct?
14 August they notified me that they were rolling off all
                                                             14
                                                                     A
15
   their vendors.
                                                             15
                                                                      Q Is that the amount of money that you earned
        Q And what, what does Sedera do?
                                                             16 providing services to Sedera?
        A They are -- it's hard to explain, but it's
                                                             17
17
                                                                      A
18 like a -- it's, it's an -- it's kind of like a
                                                                           We haven't received any updated information,
19
   healthcare insurance company, but it really isn't.
                                                             19 that I'm aware of, for 2021. Do you have an estimate
    They don't want to be known as an insurance company,
                                                             20 as to how much you made in 2021 with Sedera?
20
   but it's the best way to understand what they do.
                                                                            I don't have an estimate.
                      MS. COUGHLIN: I'm sorry. We have
22
                                                             22
                                                                      Q Did you work anywhere else besides Sedera
                                                             23 in -- since you've been employed at IBM?
   to get off so that I can --
24
                       MR. SMITH: Sure.
                                                             24
                                                                     A
                       VIDEOGRAPHER: Do you want to go
                                                             25
25
                                                                      Q When you left IBM did you apply for
                                           Page 101
                                                                                                         Page 103
1 off the record?
                                                              1 unemployment benefits?
                                                                     A Yes. T did.
                                                              2
                       MS. COUGHLIN: Just a...
                       VIDEOGRAPHER: Off the record at
                                                                          Did you receive them?
4 12:47
                                                                      A Yes, I did.
                       (At this time the proceedings went
                                                                     Q Do you know how much you received?
   momentarily off the record.)
                       VIDEOGRAPHER: We're back on the
                                                              7
                                                                      Q Do you know if you received the enhanced
   record at 12:48.
                                                                 federal benefits due to COVID?
       Q (By Mr. Smith) And what kind of work did you
                                                                           No. I think my unemployment ended before
                                                             9
                                                                 that, before the COVID hit.
10
    do for Sedera?
                                                             10
        A So I was hired to, I would say, to do two
                                                             11
                                                                           Okay. Other than the unemployment benefits,
12 things: One was to mentor the project managers, and
                                                             12 did you have any other source of income -- well, let's,
   the other thing was to help them make some process
                                                             13 let's start in -- between 2018 and 2019?
14 improvements.
                                                             14
                                                                           At some point I started collecting a pension
       Q Okay. And were you hired as an employee or
                                                                 from IBM.
16
    as a contractor?
                                                             16
                                                                      Q How much do you get monthly for the pension?
17
                                                                           Three -- approximately $3,000.
             Contractor.
           And how long did you provide contracting
                                                                      Q $3,000 per month?
                                                             18
                                                             19
   services for Sedera?
                                                                          Per month.
19
20
             I started in January of 2020.
                                                             20
                                                                      Q
                                                                          Okay. So approximately $36,000 per year?
21
         Q And you worked there -- or you provided
                                                             21
                                                                      Α
   services there until just recently?
                                                             22
                                                                     O And is that a lifetime pension?
23
            Till August. Yes.
                                                             23
                                                                           I believe it is.
                                                                     A
                                                             24
24
        O Okay. How were you paid there?
                                                                     0
                                                                          Have you withdrawn any money from any
         A Can -- I'm not sure what you mean by "how."
                                                             25 retirement vehicles that you have?
                                           Page 102
                                                                                                         Page 104
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26 (Pages 101 to 104)

#### 

1	CHANGES AND INCEDITIONS	1	TH MUD INTERD OFFICE DIGESTOR COURT
1	CHANGES AND INSERTIONS	1	IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS
2	MICHAEL SAURO	2	AUSTIN DIVISION
3	November 30, 2021	3	
4		4	CHARLES TOWNSLEY, MICHAEL § SAURO. WALTER NOFFSINGER. §
5	PAGE LINE CHANGE REASON	4	SAURO, WALTER NOFFSINGER, § ROSA DAVIDSON, MICHAEL §
6		5	KELLY, TITON HOQUE, JANET §
7			GELPHMAN, THANH DO, §
8		6	§
9		7	Plaintiffs, \$ CASE NUMBER \$ 1:20-CV-00969-LY
10		′	v. §
11		8	§
12			INTERNATIONAL BUSINESS §
13		9	MACHINES CORPORATION, §
		10	§ Defendants. §
14		11	REPORTER'S CERTIFICATION OF THE
15		12	ORAL DEPOSITION OF MICHAEL SAURO
16		13	November 30, 2021
17		14 15	I, Sandra S. Givens, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the
18		16	following:
19		17	That the witness, MICHAEL SAURO, was duly sworn by
20		18	the officer and that the transcript of the oral
21		19 20	deposition is a true record of the testimony given by the witness;
22		21	That the original deposition transcript was
23		22	submitted to: MICHAEL SAURO in care of his attorney,
24		23	Heidi A. Coughlin;
25		24 25	That a copy of this certificate was served on all parties and/or the witness shown herein on December 6,
23		25	parties and/or the witness shown herein on December 6,
	Page 169		Page 171
1	ACKNOWLEDGMENT OF DEPONENT	1	2021.
1	ACKNOWLEDGMENT OF DEPONENT	1 2	2021. I further certify that pursuant to FRCP Rule
2		2 3	I further certify that pursuant to FRCP Rule
2	I, MICHAEL SAURO, do hereby certify that I have	2	I further certify that pursuant to FRCP Rule $30(f)(1)$ that the signature of the deponent was
2 3 4	I, MICHAEL SAURO, do hereby certify that I have read the foregoing pages and that the same is a correct	2 3	I further certify that pursuant to FRCP Rule
2 3 4 5	I, MICHAEL SAURO, do hereby certify that I have read the foregoing pages and that the same is a correct transcription of the answers given by me to the	2 3 4	I further certify that pursuant to FRCP Rule $30(f)(1)$ that the signature of the deponent was requested by the deponent's attorney before the
2 3 4 5	I, MICHAEL SAURO, do hereby certify that I have read the foregoing pages and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the	2 3 4 5	I further certify that pursuant to FRCP Rule $30(f)(1)$ that the signature of the deponent was requested by the deponent's attorney before the completion of the deposition and that the transcript be
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ì		GIVENS COURT REPORTING
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8		SANDRA S. GIVENS, CSR
		Certification No. 5000
9	# sg-1913	Certificate Expires 1/31/22
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